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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 10-0642 CRB
)	
Plaintiff,)	UNITED STATES' OPPOSITION TO
)	DEFENDANT'S REQUEST FOR MODIFICATION
v.)	OF BAIL CONDITIONS
)	
DINO ANTONIONI,)	
)	
Defendant.)	

INTRODUCTION

The United States respectfully objects to the modification of pre-trial release conditions requested by defendant Antonioni. As the magistrate judge concluded, the defendant's family and financial ties to Venezuela create a risk that the defendant will flee during the course of these proceedings. The defendant has no property of his own with sufficient equity to secure a bond, nor has he proffered a surety who is willing to post property on his behalf. Nevertheless, the United States agreed with Pretrial Services' proposal that the defendant's appearance be assured by the signatures of two financial responsible sureties and a person willing to act as custodian, along with the added security of a curfew that restricts the defendant to his home to the 6 hours

1 between 11 p.m. and 5 a.m. These conditions have only been in place for one month, and a
2 modification of them at this time is not appropriate.

3 BACKGROUND

4 The defendant initially appeared before the duty magistrate on October 23, 2010. At that
5 appearance, the United States proffered that the defendant had obtained over \$350,000 in drug
6 proceeds from his involvement with Internet pharmacies, has family ties in Venezuela, and
7 appears to have sent money through accounts in Venezuela as part of his involvement in the
8 offense with which he is charged. The United States expressed its concern that the defendant
9 may have the means to flee to Venezuela, a country from which it would be difficult to extradite
10 him. Nevertheless, the United States agreed that conditions could be fashioned that would
11 insured the defendant's appearance at all stages of the proceedings, up to and including
12 sentencing. The United States proposed the following release conditions:

13	Bond:	\$200,000
14	Surety:	signature of two responsible parties
		real property with equity of at least \$100,000
15	Passport:	surrendered
16	Travel:	restricted to the Northern District of California and Southern District of Florida

17 At the bond hearing, the defendant asserted that he did not have property with sufficient
18 equity to post, nor were there sureties with sufficient assets to post a security for the bond. To
19 compensate for the defendant's inability to provide security for the bond, the Court increased the
20 amount of bond originally requested by the United States to \$250,000 and required that two
21 financially responsible parties sign the bond as sureties. In addition, to better track the
22 defendant's whereabouts, the Court ordered that a custodian agree to take responsibility for the
23 defendant and that he abide by a curfew of 11 p.m. to 5 a.m. These two additional conditions
24 were added to ensure that if the defendant were to attempt to flee the country, the Court would
25 receive notification at the earliest possible opportunity.

26 On October 21, 2010, less than one month after the defendant was released on the
27 conditions related above, Pretrial Services submitted a memorandum suggesting that the curfew
28

1 be removed from the defendant's terms of release because "Pretrial Services learned the
 2 defendant does not have an extensive history of international travel, is currently employed, and
 3 surrendered his passport to the Clerk's Office in the Northern District of California as directed."
 4 *See* Ex. 1 to Declaration of Kirstin M. Ault (hereinafter "Ault Decl."). While the defendant may
 5 not have an extensive history of international travel, he has a history of financial and familial
 6 relationships with Venezuela that create a danger that he may flee to that country. During the
 7 commission of the crimes with which he has been charged, the defendant (using the e-mail
 8 account "Yeap Its Me@yahoo.es") arranged for his business partner Robert Smoley (using the e-
 9 mail account "universemedia@gmail.com) to wire payments for drug shipments to an account in
 10 the name of Jorge Somogyi in Caracas, Venezuela. *See* Ex. 2 to Ault Decl. According to the
 11 defendant, Somogyi is his cousin. *See* Ex. 3 to Ault Decl. Moreover, the defendant admitted
 12 sending money to Somogyi on a consistent basis as a means of transferring money to persons in
 13 Venezuela in amounts larger than allowed by Venezuelan law. *Id.*

14 DISCUSSION

15 The defendant requests a modification of his terms of release because the curfew that
 16 requires him to be at home for 6 hours of each night is inconvenient. The United States does not
 17 believe that this is an appropriate reason for removing the curfew that was imposed by the
 18 magistrate judge after careful consideration of the risk of flight posed by the defendant's
 19 circumstances. The defendant has only been on pretrial release for one month and has yet to
 20 make even a second appearance in this case. The defendant's lack of recent international travel
 21 does not mitigate the fact that he is a citizen of Venezuela with family in that country and
 22 financial ties to it. The curfew was added to the bond as an essential condition of release to
 23 compensate for the fact that the defendant was unable to locate any individuals who would post
 24 assets as security for his release. The United States strongly objects to removal of that condition
 25 as the remaining conditions of release are insufficient to insure the defendant's presence at all
 26 stage of these proceedings including the imposition and service of any sentence that may result.

27 Because the defendant does not reside in California, the United States anticipates that

1 defense counsel will request that the defendant's appearance be waived for all non-essential
2 proceedings. If the Court grants this request, long periods of time could elapse between
3 appearances by the defendant in this district. The curfew provides an essential means of ensuring
4 that the defendant remains in Florida during the entire pendency of these proceedings.

5 The defendant states that the curfew is inconvenient because of his long work hours and
6 the early time at which his daughter must be taken to school. The curfew as presently set
7 requires the defendant to remain at home for only 6 hours of each night; however, if the hour of 5
8 a.m. is too late to ensure that the defendant's daughter arrives at school on time, the appropriate
9 remedy is to adjust the hour so that the defendant can attend to his family duties. If the curfew is
10 removed, the remaining conditions of release - an unsecured \$250,000 bond - are insufficient to
11 insure that the defendant will appear as required at these proceedings.

12 CONCLUSION

13 The defendant's request to modify his conditions of release should be denied. The
14 inconvenience experienced by the defendant because of the curfew does not outweigh the need of
15 the Court to ensure that the defendant, who has the means and ability to flee abroad, remains in
16 the United States for the pendency of these proceedings and reports to serve any sentence that
17 may be imposed as a result of the charges that have been brought.

18 DATED: November 1, 2010

Respectfully submitted,

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20 MELINDA HAAG
United States Attorney

21 /s/

22
23 KIRSTIN M. AULT
Assistant United States Attorney